

Under this section the orphans' court has jurisdiction to inquire as to whether an executor has made a profit by dealing with his testator's assets—see notes to section 290. *Gephart v. Strong*, 20 Md. 527.

An order of the orphans' court upon a petition, answer and consent of parties, adjudging an amount to be due a legatee, upheld under this section. *Ruby v. State*, 55 Md. 491.

The orphans' court has no power under this section to order an executor to pay legacies or make distribution until a final account in regard to debts has been passed—see notes to sections 140 and 141. *Lowe v. Lowe*, 6 Md. 353. *Cf. Clarke v. Sandrock*, 113 Md. 426.

Under this section the orphans' court only has jurisdiction of suits against an executor for an account, at the instance of a legatee or next of kin. *Randall v. Hodges*, 3 Bl. 483.

This section applies only to contested questions *inter partes*, and not to *ex parte* proceedings. *Conner v. Ogle*, 4 Md. Ch. 451.

This section referred to in construing section 143—see notes thereto. *Alexander v. Leakin*, 72 Md. 202. (See notes to section 235).

See notes to sec. 235.

1904, art. 93, sec. 236. 1888, art. 93, sec. 232. 1860, art. 93, sec. 232.
1798, ch. 101, sub-ch. 15, sec. 12. 1890, ch. 425.

237. The court may on the application of any infant or any one in his behalf suggesting improper conduct in any guardian whatever, either in relation to the care and management of the property or person of the infant, or physical or mental incapacity of the guardian to properly fulfill his duties and the purposes of the office, or any other matter or thing whereby it appears that the guardian is or has become unable to bestow such direct personal care and supervision over the person or estate of his ward as is requisite to the proper discharge of the duties of guardianship, inquire into the same, and, at its discretion, remove such guardian and make choice of another who shall give security and conduct himself in the manner herein prescribed and shall receive the property and custody of the said ward.

In case of any ill treatment or neglect of duty on the part of the guardian toward his ward, this section presents the remedy. *Lefever v. Lefever*, 6 Md. 478.

An application for the removal of a guardian must allege improper conduct relative to the ward's property and person, and the allegations must be sustained by proof. *Slattery v. Smiley*, 25 Md. 393; *Forney v. Shriner*, 60 Md. 421.

Nature and limits of the power conferred by this section. Refusal to remove a guardian upheld. *Macgill v. McEvoy*, 85 Md. 293.

An appeal lies from the action of the court in removing or refusing to remove a guardian under this section. This section distinguished from section 242. (See also, article 5, section 60.) *Macgill v. McEvoy*, 85 Md. 289; *Forney v. Shriner*, 60 Md. 421; *Slattery v. Smiley*, 25 Md. 393.

Unless a natural guardian has failed to give bond under section 154, or has been removed under this section, the appointment of another guardian is unauthorized and void. Presumption that the orphans' court acted within its jurisdiction. *Fridge v. State*, 3 G. & J. 113.

Ibid. sec. 237. 1888, art. 93, sec. 233. 1860, art. 93, sec. 233.
1798, ch. 101, sub-ch. 15, sec. 13.

238. The court may issue a summons for any person concerned in the affairs of a deceased person or for a witness, or any other person whose appearance in said courts shall be deemed necessary or proper for any purpose. And such summons may issue to any county in the